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Attorney for Debtor Mary Tilbury

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

Mary Tilbury

Debtor(s)

Case No. 21-40945

Chapter 13

**DEBTOR'S OBJECTION TO CLAIM OF
FRANCHISE TAX BOARD, CLAIM 4-2-1
(RULE 3007)**

Judge: Hon. William J. Lafferty
Hearing: Hearing Not Set

TO FRANCHISE TAX BOARD and the CHAPTER 13 TRUSTEE:

The Debtor Mary Tilbury objects to the claim of Franchise Tax Board ("Creditor") filed on 10/11/2022 (Claim No. 4-2). The subject Proof of Claim is attached as Exhibit A.

The basis for the objection is that Debtor claims she was not required to file a tax return for the years 2018, 2020, 2019.

WHEREFORE, Debtor respectfully requests that the Court disallows the proof of Claim No. 4-2 of Franchise Tax Board.

Date: November 15, 2022

/s/Evan Livingstone
Evan Livingstone
Attorney for Debtor

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EXHIBIT A
PROOF CLAIM



STATE OF CALIFORNIA
BANKRUPTCY SECTION MS A340
FRANCHISE TAX BOARD
PO BOX 2952
SACRAMENTO CA 95812-2952

Date: 10/11/22

Bankruptcy Case Number:
2140945

Debtor:
MARY TILBURY
XXX-XX-4284

Proof of Claim

UNITED STATES BANKRUPTCY COURT
Northern District of California

1300 Clay Street, Suite 300
Oakland CA 94612

Nondebtor:

Liability Type:
Personal Income Tax

Total Claim Amount: \$ 8,000.71

Secured
Claim: \$

Unsecured Priority
Claim: \$ 6,400.57

Unsecured General
Claim: \$ 1,600.14

Basis of Liability Statement

Claim	Basis	Period	Tax	Penalty	Interest	Costs	Total Claim
B *	3	12/31/2018	\$1,403.00	\$0.00	\$158.58	\$0.00	\$1,561.58
B *	3	12/31/2020	\$4,814.00	\$0.00	\$24.99	\$0.00	\$4,838.99
C *	3	12/31/2018	\$0.00	\$350.75	\$39.64	\$0.00	\$390.39
C *	3	12/31/2020	\$0.00	\$1,203.50	\$6.25	\$0.00	\$1,209.75
T *	3	12/31/2019	\$0.00	\$0.00	\$0.00	\$0.00	TBD

Claim

- A. Secured
- B. Unsecured Priority
- C. Unsecured General
- D. 1305(a)(1)
- T. To Be Determined

Account Number

* XXX-XX-4284

Basis

- 1. Tax Return Filed With Balance Due
- 3. No Tax Return Filed
- 4. Audit Assessment
- 5. Other
- 6. Community Claim (Nondebtor Liability)

The Franchise Tax Board Bankruptcy Section takes an active role in resolving bankruptcy issues. We can receive delinquent tax returns and encourage correspondence and telephone calls. We provide assistance to prevent unnecessary litigation. Call (916) 845-4750 or fax (916) 845-9799 if you need assistance.

Fill in this information to identify the case:

Debtor 1 MARY TILBURY

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of California
(State)

Case number 2140945

Official Form 410 **Proof of Claim**

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>FRANCHISE TAX BOARD</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notice to the creditor be sent? <u>BANKRUPTCY SECTION MS A340</u> <u>FRANCHISE TAX BOARD</u> Name <u>PO Box 2952</u> Number Street <u>Sacramento CA 95812-2952</u> City State ZIP Code Contact phone <u>(916) 845-4750</u> Contact email _____ Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>4</u> Filed on <u>10/27/2021</u> MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Official Form 410

Proof of Claim

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>4284</u>
7. How much is the claim?	\$ <u>8,000.71</u> . Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Taxes and/or fees</u>
9. Is all or part of the claim secured?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principle residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: \$ _____ Amount of the claim that is secured: \$ _____ Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Identify the property: <u>SEE ATTACHMENT</u>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

- ☐ No
☒ Yes. Check all that apply.

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).
☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).
☒ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).
☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____
\$ _____
\$ _____
\$ 6,400.57
\$ _____
\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
☒ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am the guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/11/2022
MM / DD / YYYY

/s/ Anthony Franklin
Signature

Print the name of the person who is completing and signing this claim:

Name Anthony Franklin
First name Middle name Last name
Title Franchise Tax Board Claim Agent
BANKRUPTCY SECTION MS A340
Company FRANCHISE TAX BOARD
Identify the corporate servicer as the company if the authorized agent is a servicer.
Address PO Box 2952
Number Street
Sacramento CA 95812-2952
City State ZIP Code
Contact phone (916) 845-4750 Email



Attachment

The Franchise Tax Board (FTB) reserves the right to amend this claim in accordance with applicable law, including, without limitation, modifying the amounts.

- Based on any audit or investigation conducted by FTB related to any of the tax years on this *Proof of Claim*, including any filed income tax returns.
- Based on additional penalties and/or interest related to tax years on the *Proof of Claim*.
- Claimed as an administrative expense, as a secured claim, as an unsecured priority claim, or as an unsecured general claim for the purposes of this bankruptcy case.

FTB's records indicate an income tax return has **not** been filed for the following tax year(s):
2018, 2020, 2019

Accordingly, FTB reserves the right to amend this claim/request based upon receipt of such income tax return(s), any audit or investigation of such return(s), or any other audit or investigation.

Except to the extent stated herein, FTB has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right of setoff against this claim of debts owed to this debtor by FTB or any other state agency. All rights of setoff are preserved and will be asserted to the extent lawful.

FTB recorded or filed the following *Notice(s) of State Tax Lien* related to the liabilities in this *Proof of Claim*:

Lien Certificate Number	Recording Date	County Recorder or Secretary of State	Recording Information	Tax Years Secured
N/A	N/A	N/A	N/A	N/A

Account

* XXX-XX-4284